

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
UNITED STATES COURTHOUSE  
40 CENTRE STREET, COURTROOM 706  
NEW YORK, NY 10007  
(212) 805-6715

RICHARD M. BERMAN  
United States District Judge

OCTOBER 2003

**Individual Practices of Hon. Richard M. Berman**

Unless otherwise ordered, matters before Judge Berman shall be conducted in accordance with the following practices:

**1. Communications With Chambers**

**A. Letters.** Except as otherwise provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel, and must show the method of delivery (e.g., "By Mail," "By Hand"). Copies of correspondence between counsel shall **not** be sent to the Court.

**B. Telephone Calls.** Except as provided in Paragraph 1(D) below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at (212) 805-6715.

**C. Faxes.** Faxes to chambers are **not** permitted.

**D. Docketing, Scheduling, Default Judgment Procedures, and Calendar Matters.** For docketing, scheduling, default judgment procedures and calendar matters, call Christine Murray, Courtroom Deputy Clerk at (212) 805-6715.

**E. Requests for Adjournments or Extensions of Time.** All requests for adjournments or extensions of time shall be **in writing** and shall state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. **If the request is for an adjournment of a court appearance, it shall be made at least 48 hours prior to the scheduled appearance.**

**2. Motions**

**A. Pre-Motion Conferences in Civil Cases.** A pre-motion conference with the court is required before making any motion, except: (1) motions that are required by the Federal Rules of Appellate Procedure to be made by a certain time; and (2) pro hac vice motions. To arrange a

pre-motion conference, the moving party shall submit a letter not to exceed **three** pages (double-spaced) in length setting forth the basis for the anticipated motion.

Any application presented by order to show cause must include a written explanation with case and statutory authority why motion practice is unavailable to the party making the application.

#### **B. Courtesy Copies.**

1. **Pleadings:** Courtesy copies of pleadings (**including Fed. R. Civ. P. 7.1 Statements, formerly Local Rule 1.9 Statements**), marked as such, for chambers, shall be submitted as soon as possible after filing in accordance with the SDNY policies regarding mail deliveries.
2. **Motion Papers:** Courtesy copies of all motion papers, marked as such, for chambers, shall be submitted at the time the papers are served in accordance with the SDNY policies regarding mail deliveries.

**C. Memoranda of Law.** Memoranda of law in support of and in opposition to motions are limited to **25 pages**, and reply memoranda are limited to **10 pages**. Memoranda of 10 pages or more shall contain a table of contents. Use double spacing, normal margins, and 12 point font for text and footnotes.

**D. Filing of Motion Papers.** Motion papers shall be filed promptly after service.

**E. Oral Argument on Motions.** Parties may request oral argument by letter at the time their moving or opposing or reply papers are filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

**F. Effect of a Motion on Notice of Appeal.** Paragraph A above does not apply to the motions described in Federal Rule of Appellate Procedure 4(a)(4)(A). A pre-motion conference is not required before making such motions, which should be filed when served.

### **3. Pre-trial Procedures**

**A. Joint Pre-trial Orders in Civil Cases.** Unless otherwise ordered by the Court, within 30 days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a **joint pre-trial** order that includes the information required by Federal Rule of Civil Procedure 26(a)(3) and the following:

- i. The full caption of the action;
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel;
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a

brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount;

iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried;

v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed;

vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented);

vii. Any stipulations or agreed statements of fact or law;

viii. Witness statements shall also include a statement by each party as to the witnesses whose testimony is to be offered in its case in chief (including the qualifications of any expert witnesses), indicating whether such witnesses will testify in person or by deposition, and a brief description of said testimony.

**B. Filings Prior To Trial in Civil Cases.** Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of any final pre-trial order if no trial date has been fixed:

i. In jury cases, joint requests to charge, joint proposed voir dire questions and a joint verdict sheet. (When feasible, proposed jury charges should also be submitted on a 3.5" diskette in WordPerfect version 5.1 or higher format);

ii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;

iii. In all cases, motions (following a conference with the Court) addressing any evidentiary or other issues which should be resolved in limine; and

iv. In any case where such party believes it would be useful (following a conference with the Court), a pre-trial memorandum.

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